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Application No. 09/868978

JUL 06 2006

Docket No.: 08577-00033-US

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(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Tetsu Yamamoto

Application No.: 09/868978

Confirmation No.: 1269

Filed: September 24, 2001

Art Unit: 1746

For: METHOD FOR PRODUCTION OF  
POLYELECTROLYTE MEMBRANES AND  
FUEL CELL

Examiner: M. M. Wills

**DECLARATION**

1. I am employed by PEMEAS GmbH in Frankfurt, Germany. I consider myself an expert in the field of polyelectrolyte membranes. I, Dr. Thomas J. Schmidt state that I reside at Frankfurt, Germany, I am a citizen of Germany; that I graduated at the University of Ulm, Germany and prepared my ph. D, thesis at the University Ulm, Germany at the Dept. of Surface Chemistry and Catalysis and have more than 4 years scientific practice in applied fuel cell membrane and membrane electrode assembly work and that I consider myself qualified by my education, knowledge and many years of experience to make this Declaration.

2. I am familiar with the Serial No. 09/868,978 ("the '978 application"). The '978 application provides support for one of ordinary skill in the art for a non-porous membrane.

3. Specifically, the specification refers to JAPANESE PATENT APPLN. HEI 10-125560. U.S. Patent No. 6,352,742 claims benefit to JAPANESE PATENT APPLN. HEI 10-125560. Support for a non-porous membrane can be found in U.S. Patent No. 6,352,742 at col. 3, lines 11-13 which state,

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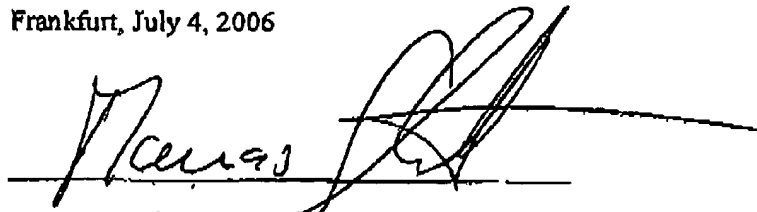
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Preferably, the polymer electrolyte is soluble to a solvent. Specifically, a solution preferably dissolves not less than 1 percent by weight of the polymer electrolyte and further preferably not less than 2 percent by weight. The features facilitate forming a uniform polymer electrolyte membrane without forming pores therein. (emphasis added).

4. One of ordinary skill in the art would understand that this passage supplies support for the phrase "the membrane is non-porous".

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Frankfurt, July 4, 2006



Dr. Thomas Schmidt